IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 13940 of 1993

For Approval and Signature:

Hon'ble MR.JUSTICE KUNDAN SINGH

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

CHHANUBHA UMEDSINGH SARVAIYA

Versus

STATE OF GUJARAT & OTHERS

Appearance:

Ms. Jesal Zaveri for MR AM RAVAL for the Petitioner.
Mr. B.Y.Mankad, ASSTT.GOVERNMENT PLEADER for Respondent No. 1
MR G.M.Barot for Mr. HS MUNSHAW for Respondent No. 3

CORAM : MR.JUSTICE KUNDAN SINGH

Date of decision: 04/12/2001

ORAL JUDGEMENT

This petition has been filed for grant of pension to the petitioner as per Government Resolution

dated 18.6.1990 at Annexure "D" to the petition and for arrears of pension from the date of declaration of pension to Kotwals from 18.6.1990 till the date of actual payment alongwith interest at the rate of 18% per annum. The petitioner was working as Kotwal in the respondent Panchayat of Amreli Taluka and he had served as Kotwal for 36 years. He claims the benefit of Government resolution dated 16.6.1990 whereby the services rendered by Kotwals after 1.3.1979 have been considered for the purpose of pensionary benefits. In the GR dated 18.6.1990, it is mentioned that Kotwal retires/dies between 1.3.1979 to 28.2.1979 rendering less than 10 years of pensionable service, will be granted the benefit of pension. The petitioner has served for about 36 years as Kotwal and retired on 30th November, 1979 on completing the age of superannuation of 60 years. Hence he is entitled for pension as per GR date 18.6.1990. The petitioner has also made a representation to the District Panchayat as well as to the State Government, but neither his representation has been decided nor any pension has been fixed and therefore, the petitioner has filed the present petition.

2. Heard the learned counsel for the parties and perused the relevant record. The respondents have not filed any affiavit-in-reply. It appears that the date of birth of the petitioner is 13.6.1916. On the basis of the superannuation age, the petitioner was to retire on 13.6.1976, but that was not declined by the authorities and hence the petitioner continued to work as Kotwal till 30th November, 1979 when he was retired by an order dated 6.12.1979 at Annexure "A" to the petition with effect from 30th November, 1979. It appears that the Taluka Development Officer, Amreli replied to the petitioner that as the superannuation age was 60 years, according to the superannuation age, the retirement date was 13.6.1976 and so the petitioner was not entitled for any pensionary benefits. But it is revealed from the Government resolution dated 18.6.1990 brought on regular full time class IV establishment in the pay scale of Rs. 196-232 with effect from 1.3.1979 under the Government Resolution dated 20th April, 1979, but the services rendered by Kotwals after 1.3.1979 have been considered for the pensionary benefits under the Government resolution, Finance Department, referred to above. It is also mentioned in the aforesaid Government resolution that in Rule 6 of the Revision of Pension Rules, 1950, only gratuity was payable to the Government employees who retire after rendering less than 10 years qualifying service on regular time establishment. This resolution also provides that representations of various persons

were considered sympathetically by the State Government and the State Government decided that the benefit of minimum pension of Rs. 375/- would be admissible to Kotwals who retired/died between 1.3.1979 to 28.2.1988 also in whose cases qualifying services is less than 10 years. In the present case, it is not disputed that the petitioner has served the department for about 36 years and the provsions of GR ate 18.6.1990 are applicable making provisions of pensionary benefits to the Kotwals who retired or died between 1.3.1979 to 28.2.1989. Admittedloy the petitioner was relieved from the service on 30th November, 1979. As such, the petitioner's service comes within the purview of the Government resolution dated 18.6.1990. As such, the petitioner is entitled for the pensionary benefits as per the Government Resolution dated 18.6.1990.

3. In the result, this petition deserves to be allowed. Accordingly, this petition is allowed. The respondent no.1 is hereby directed to pay to the petitioner all pensionary benefits as per the Government Resolution dated 18.6.1990 with running interest at the rate of 9% per annum. The respondent no.1 is also directed to calculate and pay the arrears of pension to the petitioner from 18.6.1990 alongwith interest at the rate of 9% per annum from the due date till its payment within a period of three months from the date of presentation of the copy of this judgment. The respondent no.1 is further directed to continue to pay the pension regularly in future. Rule is made absolute accordingly with no order as to costs.

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As such